

(2) *Commingling of fungible goods*—(i) *General*—(A) *Inventory of other than all non-originating goods*. Commingling of fungible originating and non-originating goods in inventory is permissible provided that the origin of the goods and the identification of entries for designation for same condition drawback are on the basis of an approved inventory method set forth in the appendix to this part.

(B) *Inventory of the non-originating goods*. If all goods in a particular inventory are non-originating goods, identification of entries for designation for same condition drawback shall be on the basis of one of the accounting methods in §191.14 of this chapter, as provided therein.

(ii) *Exception*. Agricultural goods imported from Mexico may not be commingled with fungible agricultural goods in the United States for purposes of same condition drawback under this subpart.

(c) *Goods not conforming to sample or specifications or shipped without consent of consignee under 19 U.S.C. 1313(c)*. An imported good exported to Canada or Mexico by reason of failure of the good to conform to sample or specification or by reason of shipment of the good without the consent of the consignee is eligible for drawback under 19 U.S.C. 1313(c) without regard to the limitation on drawback set forth in §181.44 of this part. Such a good must be returned to Customs custody for exportation under Customs supervision within three years after the release from Customs custody.

Example. X orders, after seeing a sample in the ABC Company's catalog, a certain quantity of 2-by-4 lumber from ABC Company located in Honduras. ABC Company, having run out of the specific lumber, ships instead a different kind of lumber. X rejects the lumber because it did not conform to the sample and is asked to send it to a customer of ABC in Canada. X exports it within 90 days of its release from Customs custody. X may recover 99 percent of the \$500 duties it paid to U.S. Customs upon the exportation of the lumber, or \$495.00.

(d) *Certain goods exported to Canada*. Goods identified in Annex 303.6 of the NAFTA and in sections 203(a) (7) and (8) of the North American Free Trade Agreement Implementation Act, if exported to Canada, are eligible for draw-

back without regard to the limitation on drawback set forth in §181.44 of this part.

[T.D. 95-68, 60 FR 46364, Sept. 6, 1995, as amended by T.D. 98-16, 63 FR 11005, Mar. 5, 1998]

§ 181.46 Time and place for filing drawback claim.

(a) *Time of filing*. A drawback claim under this subpart shall be filed or applied for, as applicable, within 3 years after the date of exportation of the goods on which drawback is claimed. No extension will be granted unless it is established that a Customs officer was responsible for the untimely filing. Drawback shall be allowed only if the completed good is exported within 5 years after importation of the merchandise identified or designated to support the claim. A good subject to a claim for same condition drawback must be exported before the close of the 3-year period beginning on the date of importation of the good into the United States.

(b) *Place of filing*. A drawback claim must be filed at the drawback office(s) where the manufacturing drawback contract is on file, whether a general rate or specific rate, but exportation need not occur from that port. To facilitate expedited processing of claims, claimants should file same condition drawback claims in the port where the examination would take place (see §191.141(b)(3) (ii) and (iii) of this chapter). Customs must be notified at least 2 working days in advance of the intended date of exportation in order to have the opportunity to examine the goods.

[T.D. 95-68, 60 FR 46364, Sept. 6, 1995, as amended by T.D. 98-16, 63 FR 11005, Mar. 5, 1998]

§ 181.47 Completion of claim for drawback.

(a) *General*. A claim for drawback shall be granted, upon the submission of appropriate documentation to substantiate compliance with the drawback laws and regulations of the United States, evidence of exportation to Canada or Mexico, and satisfactory evidence of the payment of duties to Canada or Mexico. Unless otherwise